



Virginia  
Regulatory  
Town Hall

## Proposed Regulation Agency Background Document

<b>Agency Name:</b>	80
<b>VAC Chapter Number:</b>	20
<b>Regulation Title:</b>	Board for Hearing Aid Specialists Regulations
<b>Action Title:</b>	Amendment to Hearing Aid Specialists Rules and Regulations
<b>Date:</b>	March 6, 2002

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

### Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The proposed amendments to the existing regulations would make the following changes:

To amend existing regulations governing the licensure of hearing aid specialists to clarify definitions, requirements for licensure, modify the procedures and provisions regarding renewal, and reinstatement, and standards of practice and conduct, and ensure that the board is meeting its statutory mandate to ensure minimal competence of all licensees without burdensome requirements.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.*

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§ 54.1-201.5. describes each regulatory boards power and duty to promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board.

The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulations and that it comports with applicable state and/or federal law.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

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The intent of the proposed regulatory action is to amend existing regulations governing the licensure and practice of hearing aid specialists. The purpose of the proposed amendments is to clarify entry requirements for licensure, modify the procedures and provisions regarding renewal, and reinstatement, and standards of practice and conduct.

The intent is to protect the health, safety, and welfare of the citizens of the Commonwealth by providing that the standards of practice and conduct meet all current laws and statutes and the Board is meeting its statutory mandate to ensure minimal competence of all licensees without burdensome requirements.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.*

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The proposed regulatory action will amend and clarify definitions; clarify the basic qualifications and entry level requirements for licensure by simplifying the language; clarify the qualifications for a temporary permit; change the examination requirements to only require retaking failed sections; remove language allowing delay or withholding of services by the Department relating to non-compliance with consent and final orders. Language is being proposed that will require the disclosure of felony or misdemeanor convictions on applications for licensure that is consistent with other board regulations of the Department. The proposed regulatory action will also make less restrictive certain requirements pertaining to electronic audiometer calibration and purchase agreements.

### Issues

*Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.*

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The proposed regulatory action is an advantage to the public in that it will provide clear and effective regulations to ensure competency and integrity by practitioners of hearing aid specialists. There are no disadvantages to the public or the Commonwealth with regards to the amending of the regulations governing the licensure and practice of hearing aid specialists.

### Fiscal Impact

*Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.*

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There is no anticipated fiscal impact.

### Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This*

*statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.*

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The board proposes the following:

**18 VAC 80-20-10** - The board proposes to clarify the definition of "Audiologist" by citing § 54.1-2600 of the Code of Virginia. The board also proposes to clarify the definition of "Reciprocity", "Board", and "Department", and to delete the definition of "Otologist".

**18 VAC 80-20-30** - The board proposes to clarify the basic qualifications and entry requirements for licensure by simplifying the language. The board will include language to require disclosure of convictions of any crime, and specify what types of conviction documentation are admissible as evidence. The language inclusion makes the board consistent with other DPOR boards.

**18 VAC 80-20-40** - The board proposes to clarify qualifications for a temporary permit. Language will be included to specify the reasons for which the board will extend a temporary permit, to require disclosure of disciplinary actions; this disclosure is consistent with 18 VAC 80-20-30 and to specify certification requirements as well as duties of licensed sponsors of temporary permit holders.

**18 VAC 80-20-60** – Repeal for language repetitive of § 54.1-1501.A. of the Code of Virginia.

**18 VAC 80-20-70** – The board proposes to clarify Department responsibility concerning dishonored check fee and will remove language from the fee chart for this is a Department function and should not be included in board regulations. Language concerning due date was remove for clarity for language was confusing. There is no anticipated fiscal impact.

**18 VAC 80-20-80** - The board proposes to change examination requirements to only require retaking those examination sections that were failed.

**18 VAC 80-20-120** – The board proposes for clarity to add reference language. The board proposes to remove language which allows for the delaying or withholding of services provided by the department in the event of failure or timely payment of monetary payments or fees assessed by a consent or final order.

**18 VAC 80-20-140** - The board proposes to allow a regulant to reinstate his license for a period of three years following the license expiration. Currently, a licensee may reinstate only for a period of twelve months following expiration of the license. The board proposes for clarity to add reference language.

**18 VAC 80-20-150** - The board proposes to remove language which allows for the delaying or withholding of services provided by the department in the event of failure or timely payments of monetary payments or fees assessed by a consent or final order.

**18 VAC 80-20-160** - The board proposes to include language, which will provide reinstated licenses with the same expiration date as all licenses, which were renewed on schedule.

**18 VAC 80-20-170** - Repeal for language repetitive of 18 VAC 80-20-270. Grounds for discipline. of the board's regulations.

**18 VAC 80-20-180** - The board proposes to include language specifying that the license must be visibly displayed at "each physical site of employment," and that a photocopy of the license is "acceptable" if one practices at more than one site.

**18 VAC 80-20-200** - The board proposes this section to pertain to repair and/or service, to remove "sale" from this section as it only pertains to repair and/or service and add "equipment" to items being repaired or service and language requiring that documentation provided to each purchaser be signed by the licensee or designee. Language will be removed which required the marking of "not new, sold or rented hearing aids".

**18 VAC 80-20-210** - The board proposes to clarify language pertaining to the principal place of business, as well as the purchaser and/or prospective purchaser.

**18 VAC 80-20-220** - The board proposes to clarify the information to be included on the purchase agreement versus dictating the actual purchase agreement language.

**18 VAC 80-20-230** - The board proposes to clarify what documentation from a physician must be presented before a child under 18 years of age may be fitted with a hearing aid.

**18 VAC 80-20-240** - The board proposes to include language specifying what documentation is required should an adult client decline the recommendation to obtain a written statement signed by a licensed physician stating that the patient's hearing loss has been medically evaluated within the preceding six months and that the patient may be a candidate for a hearing aid. The new language will also reference section 18 VAC 80-20-220.

**18 VAC 80-20-250** - The board proposes to make this section less restrictive by eliminating the requirement for speech tests to be performed after fittings. Further, "tinnitus as a primary symptom" has been removed from the list of conditions for which a hearing aid specialist will check a client and, if found to exist, shall "refer the client to a licensed physician".

**18 VAC 80-20-260** - The board proposes to make this section less restrictive by removing the requirement to send certified copies of electronic audiometer calibration statements to the board annually. New language will require that the statements be maintained for three years by the regulant and shall be made available to the department upon request.

**18 VAC 80-20-270** - The board proposes to include language to require disclosure of convictions of any crime, and specify what types of conviction documentation are admissible as evidence. The language inclusion makes the board consistent with other DPOR boards.

### Alternatives

*Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

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The board considered all alternative requirements and confirms that other regulatory provisions would not provide for less burdensome alternatives.

### Public Comment

*Please summarize all public comment received during the NOIRA comment period and provide the agency response.*

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There were no public comments submitted during the comment period.

### Clarity of the Regulation

*Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.*

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The Board for Hearing Aid Specialists along with the Department of Professional and Occupational Regulation, through examination of these regulations, discussions with industry professionals, and relevant public comments, have determined that the regulations are clearly written and easily understandable by the individual and entities affected.

### Periodic Review

*Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.*

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The regulations will be reviewed during the Board's normal course of regulatory review that shall in no case exceed three years from the effective date of these regulations. Fees are evaluated at the end of every biennium. If fee adjustments are necessary, the regulatory review process is initiated. Otherwise, within 24 to 36 months of the effective date of these regulations, this matter will be placed on the Board's agenda for consideration.

### Family Impact Statement

*Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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The proposed regulatory actions are not anticipated to have any significant impact on Virginia's families.